



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,226	07/25/2003	James Robert Risk JR.	8266-1089	5090
25267	7590	07/19/2004		
BOSE MCKINNEY & EVANS LLP 135 N PENNSYLVANIA ST SUITE 2700 INDIANAPOLIS, IN 46204				
			EXAMINER TRETTEL, MICHAEL	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/627,226

Applicant(s)

RISK, JAMES ROBERT

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13 and 15-65 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 10-13 and 15-20 is/are allowed.
- 6) ☒ Claim(s) 21-65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/07/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 21 to 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Sands (4,672,698). Sands shows a side rail padded cover construction that comprises siderail pads 11, 13, headboard pad 15, and footboard pad 17 each of which can be slipped onto the siderail or endboard. Each pad includes an internal frame formed from wooden members that define an open bottomed slot, with the frame being covered by foam padding and a waterproof outer cover. As shown in Figure 2 the siderail pads have a J-shaped rigid inner frame formed by inner panel 23, shorter outer panel 25, and cap 21 that overlies the siderail members 27, 29. Foam padding 33 and vinyl cover 35 enclose the wooden frame. Note that the inner wall of the pad fills the gap between the mattress and siderail as shown in Figure 1, and that the siderails are mounted on pivot links which allow them to be raised and lowered relative to the bedframe with the siderail pads in place upon the siderails. As shown in Figure 2 the siderail pad has a gap filling portion defined by the inner wall of the pad which has a triangular cross section that extends downwardly into the gap between the mattress and siderail and tapers from top to bottom. The gap filler is also adjacent to the bottom rail 31 of the siderail, since it extends past the bottom rail into the gap. The headboard pad 15 is formed by a pair of equal length frame members 53, 55 united by cap 51 and covered by foam padding 57. Note that the headboard pad includes a stepped portion that overlays the mattress 19, and also includes a gap filling portion that slips

Art Unit: 3673

between the mattress and headboard. The stepped portion of the headboard pad also fills the gap between the headboard and the adjacent siderail pads, as is shown in the upper portion of Figure 1.

Claims 57 to 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon (6,038,721). Gordon shows an articulated bed that includes pairs of siderails attached to each side of the bed, with the one pair attached to the head section and the second pair being attached to the foot or mid section of the bed. Each siderail is covered by a siderail pad that includes fastener strips 6 that wrap around the frame of the siderail. Note that each set of siderail pads overlap one another along each side, with the midsection siderail pad including a flap 24 that extends along the top edge of the siderail that engages the top edge 12 of the adjacent head siderail pad. The midsection pad includes an opening frame by rigid extensions 28 that allow the sides of the pad to overlap the head end pad and move relative thereto as the head section of the bed is inclined relative to the midsection. Fastener strips 18 extend through slots 20 formed in the sidewall of the midsection pad to wrap around the end of the midsection siderail frame.

#### ***Allowable Subject Matter***

Claims 1 to 8, 10 to 13, and 15 to 20 are allowed.

#### ***Response to Arguments***

While the applicant has asserted that newly presented claims 21 to 65 define over the prior art of record no arguments were made pointing out how or why these claims are allowable.

Art Unit: 3673

Because of this the applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. These claims have been rejected over the prior art of record.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.


Application/Control Number: 10/627,226

Page 5

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
Michael Trettel  
Primary Examiner  
Art Unit 3673